

## POSSIBLE OUTCOMES OF THE FINAL HEARING

**CASE DISMISSED** due to insufficient evidence.

**ORDER OF CIVIL COMMITMENT** for treatment in the care and custody of the county department of community programs for inpatient and/or outpatient treatment for up to 6 months.

**CONVERSION TO GUARDIANSHIP** for protective placement or services. This may be ordered if the person is found not to have a treatable mental illness, but rather a developmental disability, cognitive disability and/or degenerative brain disorder.

## WHAT ARE MY RIGHTS?

### CAN I BE FORCED TO TAKE MEDICATION DURING THE COMMITMENT PROCESS?

- **BEFORE THE PROBABLE CAUSE HEARING**, you should not be forced to take medication unless it is being used to prevent serious bodily harm to self or others.
- **IF PROBABLE CAUSE FOR A COMMITMENT IS FOUND**, the judge may also give an “order to treat.” This means that you will be given medication regardless of your consent. In order to issue an order for involuntary medication, the court needs to first determine whether the person’s refusal to take the medication is based upon sound reasoning. For example, a person who refuses medication that caused a bad reaction in the past is making a competent decision. Whereas, a person who will not take a medication that they falsely believe has been poisoned is not competent to refuse medication.
- **AFTER THE PROBABLE CAUSE HEARING**, the “order to treat” is effective until the final hearing. However, if a commitment is ordered, the “order to treat” can last throughout the commitment.

**CAN I VERIFY THAT THERE WAS AN “ORDER TO TREAT?”** You have the right to see the court orders. You can request to see the legal section of your medical chart. It will include the order for final hearing and the order to treat. You can tell any present provider that you would like to see the court order (nurse, doctor, social worker, patient advocate).

**IS MEDICATION ALWAYS PART OF THE COMMITMENT?** No.

Medications can only be given involuntarily if the court has found the person not competent to make decisions regarding medication. Otherwise, the person is free to refuse medication — even in an inpatient setting.

# WHAT ARE MY RIGHTS?

**WILL I BE ASSESSED BY MENTAL HEALTH PROFESSIONALS BEFORE THE FINAL HEARING?** Yes. A psychologist and/or psychiatrist must make an assessment and prepare a confidential report for the court, used to inform the judge's decision. These "expert witnesses" must be present at the final hearing (or participate by phone if the court allows).

**WHAT IF I FEEL OVERLY MEDICATED/ UNABLE TO CLEARLY COMMUNICATE DURING A HEARING?** Anytime before a hearing begins, you can ask your attorney to make a verbal or written request to postpone the hearing for up to a week, for any reason (or for no stated reason). However, the judge has the discretion to grant or deny the request for postponement.

**WHAT IF I FEEL MY PUBLIC DEFENDER IS NOT ACCURATELY REPRESENTING MY CASE?** You can say in court that you don't feel accurately represented/heard and request that the hearing be postponed to the last hearing of the day so that you have more time to prepare. There is no guarantee this request will be granted, but it does not hurt to ask.

An individual also has the right to ask the court to allow them to represent themselves. Courts may grant the request if they believe the person is competent to do so.

**CAN MY FAMILY MEMBERS VISIT AND/OR CALL DURING THE 72 HOUR DETENTION PERIOD?** If you agree to the visit, you are not in locked seclusion or otherwise unavailable (e.g. in therapy or other scheduled activities), your family members can visit. If you want to take the call, you are not in locked seclusion or otherwise unavailable, your family members can call during and after visiting hours.

**DOES MY PUBLIC DEFENDER HAVE TO MEET WITH ME AND/OR MY FAMILY MEMBERS BEFORE THE HEARING?** No, but you can request a meeting and you can mail, email or telephone them to give information. Develop a clearly written list of bullet points. Ask them directly: "*What is the most convenient way to share information with you?*" Public defenders do not have to communicate with family members at all. But family members can share information with them. Again, a clearly written list of bullet points is the best approach.

**DO PROVIDERS HAVE TO EXPLAIN WHY THEY ARE GIVING ME CERTAIN TREATMENT?** Yes. You have the right to have your treatment thoroughly explained to you. You have the right to be informed of the benefits and risks, expected results and possible side effects of your treatment — during the commitment process and during any treatment you are ordered to have.



**CAN MY FAMILY MEMBERS ATTEND AND/OR SPEAK DURING MY COMMITMENT HEARINGS?** If you're under 18 years old, your parents have a right to attend, participate, testify and have an attorney represent them. Family members who aren't parents are excluded unless you ask them to be present.

If you are an adult (18 years or older), the hearings are open to the public (anyone, family or not, can attend). If you request a closed hearing (a verbal request at the start of the hearing from you or your attorney), the court may or may not grant the request. In closed hearings, only witnesses can attend. Usually, family members can speak only when testifying to facts of recent dangerous behavior. The court will disregard any comments from family members about what outcome they believe the hearing should have.

**IS THERE ANY WAY I CAN GET A DIFFERENT ATTORNEY?** You have the right to request a different public defender. But this does not guarantee that a different attorney will be provided to you. Ask your current attorney how to submit your request.

**CAN MY FAMILY MEMBERS BE PRESENT AT MEETINGS WITH PROVIDERS DURING THE COMMITMENT PROCESS?** Family members can be present if an information release has been signed. You can request an information release from any provider.

**WHO DO I CONTACT IF MY RIGHTS HAVE BEEN VIOLATED?** Reach out to Disability Rights Wisconsin (DRW). DRW is Wisconsin's patient protection and advocacy agency. DRW advocates for people with any type of disability, including mental illness. You or a family member can reach them at (800) 928-8778; [disabilityrightswi.org](http://disabilityrightswi.org)



**DISCLAIMER:** The information contained in this section of the guide is meant to give readers a basic understanding of the processes and legal terms involved in the civil commitment process, to better equip families to advocate for their loved ones and individuals to better advocate for themselves. It does not constitute legal advice. Generalizations in this guide may not accurately reflect the procedures as they play out in a particular case.

As legal advice must be tailored to the specific circumstances of each case and laws can change, nothing provided herein should be used as a substitute for the advice of competent legal counsel.